



STATE BOARD OF EQUALIZATION
PROPERTY AND SPECIAL TAXES DEPARTMENT
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May 10, 2005

TO: INTERESTED PARTIES

Enclosed is a copy of Current Legal Digest (CLD) number 2005-4 for your information and review. The annotations included in this CLD are new proposed annotations (underlined) and/or suggested revisions of existing annotations (indicated by ~~strikeout~~ and underline). After review, please submit any questions, comments, or suggestions for changes *in writing* by **Friday, June 10, 2005**. These may be sent by e-mail using the "Comments Form" on the Board's Web site (www.boe.ca.gov/proptaxes/cld.htm), fax or mail. Here is the mailing address:

Board of Equalization
Assessment Policy and Standards Division
ATTN: Annotation Coordinator
P. O Box 942879
Sacramento, CA 94279-0064

Please note, the new annotations and/or suggested revisions of existing annotations contained in the enclosed CLD are *drafts* and may not accurately reflect the Board's official position on certain issues nor reflect the language that will be used in the final annotation, if formally adopted.

CLDs are circulated for 30 days, at which time any questions are addressed and/or suggested modifications taken into consideration. After approval of the final version by the Board's Legal Department, they will be printed in Volume 3 of the Property Taxes Law Guide. At that time, the CLD becomes obsolete.

Copies of the backup correspondence are available by e-mail using the "Comments Form" on the Board's Web site (www.boe.ca.gov/proptaxes/cld.htm). If you have any questions, please contact Glenna Schultz at 916-324-5836.

Sincerely,

/s/ *David J. Gau*

David J. Gau
Deputy Director
Property and Special Taxes Department

DJG/grs
Enclosure

PROPERTY AND SPECIAL TAXES DEPARTMENT

PROPERTY TAXES CURRENT LEGAL DIGEST NO. 2005-4

May 10, 2005

200.0005 BASE YEAR VALUE TRANSFER—PRINCIPAL RESIDENCE

200.0035 **Historical Property.** Revenue and Taxation Code section 69.5(e) provides that this section does not apply unless the transfer of the original property is a change in ownership that either (1) subjects the property to reappraisal at its current fair market value in accordance with section 110.1 or 5803 or (2) results in a base year value transferred to it from another property under sections 69, 69.3, or 69.5. The fact that an original property is a historical property that is enforceably restricted under a Mills Act contract and annually valued under Revenue and Taxation Code section 439.2 does not disqualify the property as an original property because section 439.2(d) provides that the restricted valuation cannot exceed a valuation under either section 110 or 110.1. In order to comply with subdivision (d), an assessor is thus required to reappraise an enforceably restricted historical property at its current fair market value in accordance with section 110 and its full cash value in accordance with section 110.1. C 1/13/2005.

220.0000 CHANGE IN OWNERSHIP

220.0308 **Joint Tenancy.** A transfer from X, Y, and Z, as joint tenants, to X and Y, as joint tenants, is a one-third change in ownership, unless either X or Y or both X and Y are original transferors as a result of a prior transfer. C 1/12/2005.

250.0000 COLLEGE EXEMPTION

250.0022 **Student Bookstore.** The leasehold interests held by for-profit organizations operating bookstores on community college, private college, and state university campuses are considered property used exclusively for public schools, community colleges, private colleges, and state universities. Property "used exclusively" for private college or public school purposes is exempt from property tax under Revenue and Taxation Code section 202, regardless of the for-profit status of the user. C 1/25/2005.

390.0000 ESCAPE ASSESSMENT

390.0055 **Mandatory Audit.** If an audit discloses that computer equipment was incorrectly classified on the business property statement and was assessed at a lower value as a result of the misclassification, the assessor may issue an escape assessment pursuant to Revenue and Taxation Code section 531.4 for the value of the equipment that was underassessed. However, if the taxpayer accurately reported the computer equipment, but the assessor determines by audit that incorrect lives were used that caused the equipment to be assessed at a lower value, the equipment is not subject to an escape assessment. A change in a life table involves the exercise of value judgment, and the

assessor is not authorized to correct such an error under Revenue and Taxation Code section 4831. C 1/3/2005.

580.0000 MANDATORY AUDIT

580.0009 Escape Assessment. If an audit discloses that computer equipment was incorrectly classified on the business property statement and was assessed at a lower value as a result of the misclassification, the assessor may issue an escape assessment pursuant to Revenue and Taxation Code section 531.4 for the value of the equipment that was underassessed. However, if the taxpayer accurately reported the computer equipment, but the assessor determines by audit that incorrect lives were used that caused the equipment to be assessed at a lower value, the equipment is not subject to an escape assessment. A change in a life table involves the exercise of value judgment, and the assessor is not authorized to correct such an error under Revenue and Taxation Code section 4831. C 1/3/2005.

660.0000 POSSESSORY INTEREST

660.0075 Effective Date. In 1985, Company E leased a terminal owned by the City of Los Angeles until March 2003. In 1998, Company E executed another lease agreement that took effect on November 16, 2001, for the same real property plus additional acreage. The second lease provided that, upon execution, the first lease terminated. The second lease did not renew or extend the possessory interest created by the first lease, but rather the second lease created a new possessory interest resulting in a change in ownership on the effective date of the second lease, November 16, 2001, and not on the original termination date of the first lease. C 1/25/2005.